

— North Macedonia and the European Social Charter —

Signatures, ratifications and accepted provisions

North Macedonia ratified the European Social Charter on 31/03/2005, accepting 41 of the Charter's 72 paragraphs. It ratified the Amending Protocol to the Charter on 31/03/2005.

North Macedonia ratified the Revised Charter on 6 January 2012, accepting 63 of the Charter's 98 paragraphs.

It has signed but not ratified the Additional Protocol to the Charter and it has neither signed nor ratified the Additional Protocol providing for a system of Collective Complaints.

The Charter in domestic law

Automatic incorporation into domestic law based on the Constitution, Article 118: "The international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law".

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2	
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1	
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3	
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22	
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1	
31.2	31.3						Grey = accepted provisions					

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted its [1st report](#) concerning North Macedonia in 2018.

In this report, the Committee invited the Government of North Macedonia to consider accepting the provisions identified as not posing a major problem of acceptance, namely Articles 3§1, 9, 10§1, 18§1, 18§2, 18§4, 19§7, 19§9, 19§10 and 22.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ¹

I. Reporting system ²

Reports submitted by North Macedonia.

Between 2007 and 2019, North Macedonia has submitted 6 reports on the application of the 1961 Charter and 6 reports on the application of the Revised Charter.

The [5th report](#), submitted on 17/01/2018 covers the accepted provisions of the Revised Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28, 29).

Conclusions with respect to these provisions have been published in March 2019.

The [6th report](#), which was submitted on 14/12/2018, concerns the accepted provisions relating to Thematic group 4 "Children, families, migrants", namely:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

Conclusions with respect to these provisions will be published in January 2020.

¹ The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

² Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ³

Thematic Group 1 « Employment, training and equal opportunities » - Conclusions 2016

► *Article 151 – Right to work - Policy of full employment*

The employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 152 – Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

Restrictions on employing foreign nationals of other States Parties to the Charter in the public service are excessive, which constitutes a discrimination based on nationality.

► *Article 154 - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.

► *Article 1551 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Education and training for persons with disabilities*

It has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.

Thematic Group 2 « Health, social security and social protection » – Conclusions 2017

► *Article 1251 - Right to social security - Existence of a social security system*

- It has not been established that the existing social security schemes cover a significant percentage of the population;
- The minimum duration of payment of unemployment benefits is too short;
- The minimum amount of unemployment benefit, calculated on the basis of the minimum wage in certain sectors, is inadequate.

► *Article 1254 - Right to social security - Social security of persons moving between States*

- Equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- It has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;
- It has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

► *Article 1351 - Right to social and medical assistance- Adequate assistance for every person in need*

- The level of social assistance paid to a single person without resources is not adequate;
- Nationals of States Parties lawfully resident are subject to a length of residence requirement of five years for entitlement to social assistance.

Thematic group 3 « Labour rights » – Conclusions 2018

► *Article 255 – Right to just conditions of work – Weekly rest period*

Weekly rest days may be postponed over a period exceeding twelve successive working days.

► *Article 257 – Right to just conditions of work - Night work*

Employee representatives are not consulted regularly on the conditions relating to night work and on measures taken to reconcile employees' needs and the special nature of night work.

► *Article 452 - Right to a fair remuneration - Increased remuneration for overtime work*

The legislation does not guarantee public officials an increased time off in lieu of remuneration for overtime.

► *Article 455 - Right to a fair remuneration - Limits to deduction from wages*

³ Further information on the situations of non-conformity is available on the [HUDOC database](#).

The attachable amount of wages leaves workers who are paid the lowest wages and their dependents insufficient means of subsistence.

► *Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

It has not been established that:

- protection of trade union representatives against dismissal extends for a reasonable period after the expiry of their mandate,
- workers' representatives enjoy protection from prejudicial acts short of dismissal,
- facilities afforded to workers' representatives are adequate.

Thematic group 4 « Children, families and migrants » - Conclusions 2015

► *Article 7§1 – Right of children and young persons to protection – Prohibition of employment under the age of 15*

The daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

► *Article 7§3 – Right of children and young persons to protection – Prohibition of employment of children subject to compulsory education*

The duration of working time for young persons still subject to compulsory education is excessive and therefore cannot be qualified as light work.

► *Article 7§9 – Right of children and young persons to protection – Regular medical examination*

A full medical examination of young workers under 18 at recruitment is not guaranteed by national laws or regulations. The interval between the medical examinations for young workers during employment is too long.

► *Article 16 – Right of the family to social, legal and economic protection*

Family benefits do not cover a significant number of families; equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

► *Article 19§6 – Right of migrant workers and their families to protection and assistance – Family reunion*

Family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

The Committee has been unable to assess compliance with the following provisions and has invited the Government of North Macedonia to provide more information in the next report:

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Article 1§3 - Conclusions 2016
- ▶ Article 15§2 - Conclusions 2016
- ▶ Article 20 - Conclusions 2016
- ▶ Article 24 - Conclusions 2016

Thematic Group 2 « Health, social security and social protection »

- ▶ Article 3§2 - Conclusions 2017
- ▶ Article 13§3 - Conclusions 2017

Thematic group 3 « Labour rights »

- ▶ Article 2§1 - Conclusions 2018
- ▶ Article 4§3 - Conclusions 2018
- ▶ Article 6§4 - Conclusions 2018
- ▶ Article 21 - Conclusions 2018
- ▶ Article 26§2 - Conclusions 2018
- ▶ Article 29 - Conclusions 2018

Thematic Group 4 « Children, families, migrants »

- ▶ Article 8§1 - Conclusions 2015
- ▶ Article 17§1 - Conclusions 2015
- ▶ Article 17§2 - Conclusions 2015
- ▶ Article 19§1 - Conclusions 2015
- ▶ Article 19§8 - Conclusions 2015
- ▶ Article 27§3 - Conclusions 2015

II. Examples of progress achieved in the implementation of rights under the Charter ***(non - exhaustive list)***

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ The upper limit on the amount of compensation in cases of discrimination was repealed in August 2008 following the adoption of the amended version of the Law on Labour Relations. The amount of compensation is now determined case by case.
- ▶ The Law on Prevention of and Protection against Discrimination (the Anti-Discrimination Law), adopted in 2010, prohibits any direct or indirect discrimination on grounds including disability in areas such as education, science and sport.
- ▶ At federal level, the law on combating the gender pay gap was adopted on 22 April 2012 and requires measures to combat the wage gap to be negotiated at inter-occupational, sectoral and company level.

Thematic Group 2 « Health, social security and social protection »

- ▶ According to the Law on Health Insurance of April 2011 all persons who do not have other basis for health insurance shall be covered and exercise the right to health and are no longer be obliged to register as unemployed persons in the Employment Service Agency.

Thematic group 3 « Labour rights »

- ▶ Preventive measures aimed at eliminating or reducing the risks related to work feature in the Occupational Safety and Health Act, which was amended in 2014. Article 11 requires employers to prepare a risk assessment statement for each workplace, with appropriate instructions and measures to be introduced. They are required, in particular, to conduct risk assessments for the entire workplace and eliminate all the risks and hazards identified, in accordance with an official rulebook on the preparation of safety statements, their contents, and the data on which risk assessments should be based.
- ▶ Pursuant to Article 11 of the Law on Protection against Harassment at Workplace (PHW Law), adopted in 2013, the employer has the obligation to inform employees of their and the employer's rights and obligations as regards harassment and of the relevant protective measures and procedures available. The respect of this obligation is monitored by the Labour Inspectorate.

Thematic Group 4 « Children, families, migrants »

- ▶ According to the Child Protection Act of 12 February 2013: corporal punishment is prohibited in alternative care settings (foster care, institutions, places of safety, emergency care, etc.).
- ▶ Section 162 of the Labour Relations Act, as amended in 2013 (Official Gazette No. 13/13), provides that pregnant women and mothers until one year after the birth should not perform any work which would expose them to increased risks for their health or their child's health.